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Message Text

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70/64
ACTION EB-07

INFO OCT-01 AF-08 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00

FMC-01 INR-07 NSAE-00 SAL-01 CG-00 DLOS-06 OES-06 L-03

TRSE-00 /040 W
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R 191426Z NOV 76 MRN CORRECTION
FM AMEMBASSY LAGOS
TO SECSTATE WASHDC 7837

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C O R R E C T E D C O P Y (MRN 13094 VICE 13994)

E. O. 11652: N/A
TAGS: EFIN, NI
SUBJ: DEMURRAGE PAYMENTS TAXED

1. EMBASSY HAS LEARNED FROM MR. NEVILLE E. BEAN, REGIONAL MANAGER, KAISBF TRADING (U.K.) LTD. (AFFILIATED WITH KAISER INDUSTRIES, OAKLAND) OF FMG PLOY TO RECOUP PART OF LOSSES ON PAYMENTS OF DEMURRAGE TO WAITING CEMENT SHIPS DURING FALL 1975 HEIGHT OF PORT CONGESTION. KAISER HAS HAD CLAIM FOR APPROXIMATELY $950,000 IN DEMURRAGE PAYMENTS WHICH HAS BEEN PROCESSED THROUGH CEMENT PANEL AND OTHER STEPS IN ACCORDANCE WITH PROCEDURES AUTHORIZED BY FMG IN WAKE OF CEMENT CONTRACT CANCELLATIONS. PROCESSING HAD REACHED POINT OF EXCHANGE CLEARANCE REQUESTS THIS WEEK WHEN KAISER (AND PRESUMABLY ALL OTHERS WITH DEMURRAGE CLAIMS OUTSTANDING) INFORMED FMG HAD DECIDED TO ASSESS INCOME TAX ON ALL DEMURRAGE PAYMENTS.

2. INCOME TAX CALCULATED AS FOLLOWS: FIRST 60 PERCENT OF DEMURRAGE CONSIDERED EQUAL TO EXPENSES INCURRED AND NOT TAXED. RAMAINING 40 PERCENT CONSIDERED INCOME AND TAXED AT 45 PERCENT. THUS KAISER ASSESSED TAX OF $171,000 ON DEMURRAGE CLAIM. TAX DEDUCTED FROM CLAIM AND BALANCE TO BE PAID.

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3. BEAN CALLED CONSIDERATION OF DEMURRAGE AS INCOME IN

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SENSE OF PROFIT ABSURD IN KAISER'S CASE. SHIP WAITING EXPENSES INCURRED BY COMPANY DIFFICULT TO CALCULATE ON DAILY BASIS BUT PROBABLY AMOUNT TO OVER 90 PERCENT OF DEMURRAGE RATE. IN HIS JUDGMENT, SEPARATING KAISER DEMURRAGE RECEIPTS FROM REST OF ITS INCOME AND EXPENSES ON CEMENT CONTRACT AND CALLING IT "INCOME" UNPRECEDENTED. HE NOW CONSULTING NIGERIAN ATTORNEY AND OAKLAND KAISER HOME OFFICE ON HOW TO PROCEED.

4. KAISER ASKS NO ASSISTANCE FOR PRESENT. EMBASSY RELATES FOREGOING PRIMARILY FOR DEPARTMENT'S BACKGROUND IN POSSIBLE INQUIRIES FROM US BUSINESS COMMUNITY. IT APPEARS FINAL CHAPTER OF DEMURRAGE SCANDAL NOT YET COMPLETE.
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Disposition Authority: CunninFX
Disposition Case Number: n/a
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